IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Balveer Singh Singhvi v. The United Commercial Bank & Ors.

S.B.CIVIL WRIT PETITION NO.5186/2003
under Article 226 of the Constitution of India.

Date of Order : 26th May, 2005

P R E S E N T
HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.S.Bhati, for the petitioner.
Mr. Vijay Bishnoi, for the respondents.

BY THE COURT :

The petitioner was suspended from services on 4.4.1977 contemplating disciplinary proceedings. A charge sheet was served upon the petitioner and after holding an inquiry the disciplinary authority by an order dated 3.9.1985 imposed various punishments upon the petitioner including removal from services. The punishments imposed upon the petitioner by disciplinary authority are reproduced hereunder:-

"Charge No.1:The basic pay of Sh.B.S.Singhvi is reduced by one stage in the time scale of pay applicable to him.

Charge No.2: The basic pay of Sh.B.S.Singhvi is reduced by two stage in the time scale of pay applicable to him.

Charge No.3: Sh.B.S.Singhvi is removed from bank service which shall not be disqualification for future employment.

Charge No.4: The basic pay of Sh.B.S.Singhvi is reduced by two stage in the time scale of pay applicable to him.

Charge No.5: Sh.B.S.Singhvi is removed from bank service which shall not be disqualification for future employment."

The penalties above took concurrent effect from 3.9.1985 and the petitioner was not entitled to receive any payment for salary, allowances etc. after 3.9.1985.

The petitioner being aggrieved by the order passed by the disciplinary authority preferred an appeal before the appellate authority i.e. General Manager, Operation-I, as provided under the regulation 17 of the UCO Bank Officers "Employees" (Discipline and Appeal) Regulation, 1976. The appellate authority after considering record of the inquiry and the contentions raised by the petitioner exonerated him from charges No.1 and 5. The appellate authority

modified the punishment imposed by the disciplinary authority in following terms:-

> "Charge No.1: Not proved. Exonerated.
>
> Charge No.2:Proved. The basic pay of Sh.B.S.Singhvi is reduced by two stage in the time scale of pay applicable to him.
>
> Charge No.3:Proved. Sh.B.S.Singhvi is removed from bank service which shall not be disqualification for future employment.
>
> Charge No.4:Proved. The basic pay of Sh.B.S.Singhvi is reduced by two stage in the time scale of pay applicable to him.
>
> Charge No.5:Not proved. Exonerated."

The above penalties were also required to run concurrently w.e.f. 3.9.1985 and the petitioner was declared disentitled to receive any payment of salary, allowances etc. from the date the order imposing punishment was passed i.e. 3.9.1985.

The instant writ petition has been filed by the petitioner with the prayer that the respondents imposed a punishment of removal upon him and declared him disentitled for getting any wages, allowances etc. but no decision was taken with regard to payment of wages for the period the petitioner remained under suspension. A direction is sought for the respondents to release salary and wages pertaining to the

petitioner for the period commencing from 4.4.1977 to 2.9.1985 with provident fund, gratuity, leave allowances and other service allowances with interest.

A reply to the writ petition has been filed on behalf of the respondent Bank stating therein that the petitioner by way of filing a writ petition bearing No.770/02 decided on 2.8.2002 by this Court also prayed for similar reliefs but the same were not given to him, as such the principles of res-judicata disentitles him to claim the same relief by way of filing a separate writ petition.

I have heard counsel for the parties.

It is pointed out by the counsel for the petitioner that earlier writ petition bearing No.770/02 was filed by him giving challenge to the order passed by the disciplinary authority and affirmed by the appellate authority. In the said writ petition the question with regard to payment of wages pertaining to the period commencing from 4.4.1977 to 2.9.1985 was not at all involved.

The counsel for the respondents is not at all in a position to dispute this fact. In view of it the principles of res-judicata are having no role to play in the present case. The petitioner was placed under suspension on 4.4.1977 which came to an end on

3.9.1985, the day on which the petitioner was removed from services. During the period the petitioner was under suspension he was entitled to get subsistence allowance. Any payment including salary beyond the payment of subsistence allowance was required to be decided by disciplinary authority while imposing punishment. It appears that the disciplinary authority has not taken any decision with regard to payment of wages and other allowances to the petitioner for the period he remained under suspension.

In view of it this petition for writ is allowed with direction to the respondent Bank to decide the question with regard to payment of wages and other allowances to the petitioner beyond the payment of subsistence allowance for the period commencing from 4.4.1977 to 2.9.1985. Such a decision is required to be taken by the respondent Bank within a period of two months from today. In even, respondents reaches at the conclusion that the petitioner is not entitled for payment of wages beyond subsistence allowance, the respondents shall pass an order giving reasons to do so.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.